IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10045 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHARATBHAI SANKALCHAND PATEL

Versus

REGIONAL PASSPORT OFFICER

Appearance:

MR JAYESH A DAVE for Petitioner

MR UI VYAS for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 12/10/2000

ORAL JUDGEMENT

Rule. Mr.U.I.Vyas, Learned Additional Standing Counsel for the Central Government waives service of rule for the respondent.

2. In this petition under Article 226 of the Constitution, the petitioner has prayed for a writ of mandamus directing the respondent to issue a fresh passport with corrected entries with respect to birth date i.e. 19.3.1964 and first name i.e. Bharatbhai Sankalchand Patel as per his birth certificate (at annexure "A" to the petition).

3. The petitioner was earlier issued passport wherein his date of birth and first name were mentioned as 17.2.1964 and Bharatbhai Sakarchand Patel as per School Leaving Certificate which was a mistake and thereafter the petitioner made a request to the respondent authorities to make necessary corrections in the passport with respect to his date of birth and his name as per the birth certificate issued by the Talati cum Mantri, Ranasan Gram Panchayat(at annexure "A" to the petition) but the said request was turned down by the respondent authorities on the ground that for such corrections in the passport court's order is required. Hence, the petitioner has filed the present petition.

4. In view of the settled position that if there is any discrepancy between the birth date recorded in the birth certificate issued by the Municipality/Local authority and the birth date recorded in the School Leaving Certificate, the birth date recorded in the birth certificate should normally prevail, the Regional Passport Officer should not have had any hesitation in accepting the petitioner's request for showing the birth date and his name in the passport on the basis of birth certificate issued by the Talati cum Mantri, Ranasan Gram Panchayat (at annexure "A" to the petition).

5. In view of the above discussion, the petition is allowed. The Regional Passport Officer is directed to consider the petitioner's request for change of date of his birth and change in his name in the passport in accordance with law on the basis of the material which may be placed before the Regional Passport Officer, more particularly the birth certificate issued by the Talati cum Mantri, Ranasan Gram Panchayat (at Annexure "A" to the petition) and shall pass appropriate orders within a period of one month from the date of receipt of the writ of this Court or a certified copy of this judgment, whichever is earlier.

In case the petitioner is required to apply for a

fresh passport, the petitioner shall comply with the requisite formalities for the same.

6. The petition is accordingly allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent.

8. Since the respondents are not responsible for the mistake in question, the petitioner shall pay costs of this petition, which are quantified at Rs.1,500/-, to the respondent within two weeks from today. Direct Service is permitted.

12.10.2000 (M.S.SHAH,J)